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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 3823 of 2007

Date of decision: 30.8.2007

Malkiat Kaur **...Petitioner**

Versus

Chanchal Singh **...Respondent**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Anuj Raura, Advocate for the petitioners.

Mr. H.S.Sirohi, Advocate for the respondent

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RAJESH BINDAL, J.

Challenge in the present petition, filed under Articles 227 of the Constitution of India, is to the order dated January 12, 2007 passed by the Civil Judge (Senior Division), Chandigarh whereby the petitioner-plaintiff was deprived of leading her entire evidence as by that order only cross examination of the petitioner-plaintiff was permitted and other evidence of the petitioner-plaintiff was closed. Further, it was ordered that petitioner-plaintiff may bring her entire evidence before 12.00 noon on the date, when the order was passed on January 12, 2007 at 11.30 A.M.

A perusal of the order shows that at 12.15 P.M. one lady Malkiat Kaur and one person Harbhajan Singh were produced. However, learned counsel for the petitioner expressed lack of faith in the Court and requested that his case be transferred. The matter was put up before the learned District and Sessions Judge, who vide order dated February 10, 2007 transferred the case of the petitioner from the Court of Shri Balwinder Kumar to the Court of Shri Sandeep Parmar and thereafter the proceedings are going on before the transferee Court. However, on account of order passed on January 12, 2007, petitioner is unable to lead any other evidence.

The dispute involved in the present case is regarding recovery .

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It is averred that respondent-tenant, who is a Government servant, had been allotted an official accommodation in Sector 11 on November 10, 2001 and had infact shifted to the official accommodation but still he has not vacated the property in dispute, thereby causing undue harassment to the senior citizen, namely, present petitioner. She further submitted that in case two opportunities are granted, she would complete her entire evidence, namely, cross examination of the husband of the plaintiff, an official witness from the House Allotment Committee, U.T., Chandigarh proving allotment of official accommodation to the respondent and expert witness to depose about damage caused by the respondent to the property in question.

After hearing learned counsel for the parties, I find merit in the contention raised by learned counsel for the petitioner. A perusal of the order passed by the Court on January 12, 2007, clearly shows that matter was being proceeded in hush hush manner. It was not appropriate for the Civil Judge (Junior Division) to have passed an order at 11.30 A.M. for production of entire evidence by 12.00 Noon on that date. A perusal of the order shows that the entire evidence of the plaintiff was closed except the cross examination of PW1, which was to be produced on the next date i.e. January 30, 2007 fixed on that date. Once the Court was fixing the date for cross examination of one of the plaintiff's witness, nothing prevented it from granting opportunity to the petitioner-plaintiff for completion of her entire evidence on that date, especially keeping in view the another factum that two of the witnesses were produced by the petitioner-plaintiff at 12.15 P.M. on the same day.

Accordingly, in the interest of justice, I allow the present petition and direct the trial Court to grant two opportunities to the petitioner-plaintiff to complete her entire evidence. Petitioner is at liberty to take the help of the Court to summon the witnesses.

August 30, 2007 **(Rajesh Bindal)**
Pka **Judge**